

# HOUSE . . . . . No. 4133

Report of the committee of conference on the disagreeing votes of the two branches, with reference to the Senate amendment (striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2052) of the House Bill to improve the laws relating to campaign finance, ethics and lobbying (House, No. 3856), recommending passage of a bill with the same title (House, No. 4133). June 24, 2009.



## The Commonwealth of Massachusetts

In the Year Two Thousand and Nine.

### AN ACT TO IMPROVE THE LAWS RELATING TO CAMPAIGN FINANCE, ETHICS AND LOBBYING.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

**SECTION 1.** Section 39 of chapter 3 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the definition of "Client" and inserting in place thereof the following definition:-

"Client", any person, corporation, partnership, association, or other entity that contracts with another person, corporation, partnership, association, or other entity to receive lobbying services.

**SECTION 2.** Said section 39 of said chapter 3 of the General Laws, as so appearing, is hereby further amended by striking out the definition of "Executive agent" and inserting in place thereof the following two definitions:-

13 “Executive agent”, a person who for compensation or reward engages in executive lobbying,  
14 which includes at least1 lobbying communication with a government employee made by said  
15 person. The term “executive agent” shall include a person who, as part of his regular and usual  
16 business or professional activities and not simply incidental thereto, engages in executive  
17 lobbying, whether or not any compensation in addition to the salary for such activities is received  
18 for such services. For the purposes of this definition a person shall be presumed to be engaged in  
19 executive lobbying that is simply incidental to his regular and usual business or professional  
20 activities if he: (i) engages in executive lobbying for not more than 25 hours during any reporting  
21 period; and (ii) receives less than \$2,500 during any reporting period for executive lobbying.  
22

23 “Executive lobbying,” any act to promote, oppose, influence, or attempt to influence the  
24 decision of any officer or employee of the executive branch or an authority, including but not  
25 limited to, statewide constitutional officers and employees thereof, where such decision concerns  
26 legislation or the adoption, defeat or postponement of a standard, rate, rule or regulation  
27 promulgated pursuant to any general or special law, or any act to communicate directly with a  
28 covered executive official to influence a decision concerning policy or procurement; provided  
29 further, that executive lobbying shall include acts to influence or attempt to influence the  
30 decision of any officer or employee of a city or town when those acts are intended to carry out a  
31 common purpose with executive lobbying at the state level; and provided further, that executive  
32 lobbying shall include strategizing, planning, and research if performed in connection with, or  
33 for use in, an actual communication with a government employee; and provided, further, that  
34 “executive lobbying” shall not include providing information in writing in response to a written  
35 request from an officer or employee of the executive branch or an authority for technical advice  
36 or factual information regarding a standard, rate, rule or regulation, policy or procurement for the  
37 purposes of this chapter.  
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39 **SECTION 3.** Said section 39 of said chapter 3 of the General Laws, as so appearing, is hereby  
40 further amended by striking out the definition of “Legislative agent” and inserting in place  
41 thereof the following two definitions:-  
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44 “Legislative agent”, a person who for compensation or reward engages in legislative lobbying,  
45 which includes at least1 lobbying communication with a government employee made by said  
46 person. The term “legislative agent” shall include a person who, as part of his regular and usual  
47 business or professional activities and not simply incidental thereto, engages in legislative  
48 lobbying, whether or not any compensation in addition to the salary for such activities is received  
49 for such services. For purposes of this definition a person shall be presumed to be engaged  
50 legislative lobbying that is simply incidental to his regular and usual business or professional  
51 activities if he: (i) engages in legislative lobbying for not more than 25 hours during any

reporting period; and (ii) receives less than \$2,500 during any reporting period for legislative lobbying.

“Legislative lobbying,” any act to promote, oppose, influence or attempt to influence legislation, or to promote, oppose or influence the governor’s approval or veto thereof including, without limitation, any action to influence the introduction, sponsorship, consideration, action or non-action with respect to any legislation; provided further, that legislative lobbying shall include acts to influence or attempt to influence the decision of any officer or employee of a city or town when those acts are intended to carry out a common purpose with legislative lobbying at the state level; and provided further, that legislative lobbying shall include strategizing, planning and research if performed in connection with or for use in an actual communication with a government employee; provided, however, that “legislative lobbying” shall not include providing information in writing in response to a written request from an officer or employee of the legislative branch for technical advice or factual information regarding any legislation for the purposes of this chapter.

**SECTION 4.** Section 41 of said chapter 3, as so appearing, is hereby amended by inserting after the first paragraph the following paragraph:-

The state secretary shall offer educational seminars on the requirements of sections 39 to 50, inclusive, for all legislative agents and executive agents. The seminars shall be conducted in person or offered online through the state secretary’s website. All legislative and executive agents shall: (i) before registering with the state secretary and annually thereafter, complete an in person or online seminar offered by the state secretary; and (ii) complete an in person or online seminar offered by the state secretary upon any material change to sections 39 to 50, inclusive, or any regulations promulgated pursuant thereto. The superintendent of the bureau of state office buildings shall, upon request of the state secretary, provide at no cost to the state secretary suitable facilities for such seminars. The state secretary shall adopt regulations for the administration and enforcement of this section.

**SECTION 5.** Said section 41 of said chapter 3, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following 2 paragraphs:-

Upon registration, the state secretary shall issue to each legislative agent and executive agent a license which shall entitle the holder to act as a legislative agent and executive agent for a client that has filed a registration statement pursuant to this section. A nontransferable identification card shall evidence this license and shall include the agent’s name and photograph. Each license shall expire on December 31 of each year. Out-of-state legislative agents and executive agents shall submit 3 passport-sized photographs to the state secretary upon registration.

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93 The state secretary shall, upon written request from a person who is or may be subject to  
94 sections 39 to 50, inclusive, render advisory opinions on the requirements of those sections. An  
95 opinion rendered by the state secretary, unless amended or revoked, shall be a defense in a  
96 criminal action brought pursuant to sections 39 to 50, inclusive, and shall be binding on the state  
97 secretary, the attorney general or the district attorney in any subsequent proceedings concerning  
98 the person who requested the opinion and who acted in good faith, unless material facts were  
99 omitted or misstated by the person in the request for an opinion. Such requests shall be  
100 confidential; provided, however, that the state secretary may publish such opinions if the name of  
101 the requesting person and any other identifying information is not included in such publication  
102 unless the requesting person consents to such inclusion.

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104 **SECTION 6.** Said chapter 3 is hereby amended by striking out section 42, as so appearing, and  
105 inserting in place thereof the following section:-  
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107 Section 42. No person shall make any agreement whereby any compensation or thing of value is  
108 to be paid to any person contingent upon a decision as described in the definition of “executive  
109 lobbying”, or the passage or defeat of any legislation or the approval or veto of any legislation by  
110 the governor. No person shall agree to engage in legislative lobbying for consideration to be paid  
111 upon the contingency of the outcome of the actions described in the definition of “legislative  
112 lobbying” or that any legislation is passed or defeated.  
113

114 Nothing in this section shall prohibit a person whose primary occupation is in marketing  
115 or selling a product or service for the person’s company of employment from engaging in the  
116 sale of that product or service to the commonwealth for a commission or other compensation as  
117 long as the person is a full time employee for said company.  
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119 **SECTION 7.** Section 43 of said chapter 3, as so appearing, is hereby amended by striking out, in  
120 line 4, the words “appearing on the docket”.  
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122 **SECTION 8.** Said section 43 of said chapter 3, as so appearing, is hereby further amended by  
123 striking out the third paragraph and inserting in place thereof the following paragraph:-  
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125 Every legislative agent and executive agent shall include in the statement required by this  
126 section for the relevant reporting period: (1) the identification of each client for whom the  
127 legislative or executive agent provided lobbying services; (2) a list of all bill numbers and names  
128 of legislation and other governmental action that the executive or legislative agent acted to  
129 promote, oppose or influence; (3) a statement of the executive or legislative agent’s position, if  
130 any, on each such bill or other governmental action; (4) the identification of the client or clients  
131 on whose behalf the executive or legislative agent was acting with respect to each such bill or

governmental action; (5) the amount of compensation received for executive or legislative lobbying from each client with respect to such lobbying services; and (6) all direct business associations with public officials. The disclosure shall be required regardless of whether the legislative agent or executive agent specifically referenced the bill number or name, or other governmental action while acting to promote, oppose or influence legislation, and shall be as complete as practicable.

**SECTION 9.** Said section 43 of said chapter 3, as so appearing is hereby further amended by inserting after , the word “consumed”, in line 78, the following words:-; provided, however, that regulations promulgated by the state ethics commission under section 6 of chapter 268B, shall apply to this provision.

**SECTION 10.** The fourth paragraph of said section 43 of said chapter 3, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Said penalty shall be in the amount of \$50 per day up to the twentieth day and an additional \$100 per day for every day after the twentieth day until the statement is filed. The state secretary may waive these penalties for good cause.

**SECTION 11.** The second paragraph of section 44 of said chapter 3, as so appearing, is hereby further amended by striking out the second sentence and inserting in place thereof the following sentence:- Said penalty shall be in the amount of \$50 per day up to the twentieth day and an additional \$100 per day for every day after the twentieth day until the statement is filed. The state secretary may waive these penalties for good cause.

**SECTION 12** Said chapter 3 is hereby further amended by striking out section 45, as so appearing, and inserting in place thereof the following section:-

Section 45. (a) Upon receipt of a sworn complaint signed under pains and penalties of perjury, or upon receipt of evidence which is deemed sufficient by the state secretary, the state secretary shall initiate a preliminary inquiry into any alleged violation of sections 39 to 50, inclusive. At the commencement of a preliminary inquiry into any such alleged violation, the state secretary shall notify the attorney general. All proceedings and records relating to a preliminary inquiry or initial staff review used to determine whether to initiate an inquiry shall be confidential, except that the state secretary may provide to the attorney general, the United States Attorney or a district attorney of competent jurisdiction evidence which may be used in a criminal proceeding. Any information provided by the state secretary pursuant to this section shall be confidential pursuant to this section and section 4 of chapter 268B, except that such information may be used by the officer or agency to whom it was provided in any investigation or subsequent proceedings. The state secretary shall notify any person who is the subject of the

171 preliminary inquiry of the existence of such inquiry and the general nature of the alleged  
172 violation within 30 days of the commencement of the inquiry.

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174 (b) If a preliminary inquiry fails to indicate reasonable cause for belief that there has been  
175 a violation of sections 39 to 50, inclusive, the state secretary shall immediately terminate the  
176 inquiry and shall within 10 days so notify, in writing, the complainant, if any, and the person  
177 who had been the subject of the inquiry.

178  
179 (c) If a preliminary inquiry indicates reasonable cause for belief that there has been a  
180 violation of sections 39 to 50, inclusive, the state secretary may initiate an adjudicatory  
181 proceeding to determine whether there has been such a violation.

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183 (d) The state secretary may require by summons the attendance and testimony of witnesses  
184 and the production of books, papers or other financial documents directly relating to any matter  
185 being investigated pursuant to sections 39 to 50, inclusive, provided that the state secretary's  
186 subpoena power shall be limited to obtaining employment contracts and other contracts or  
187 agreements related to services rendered, work performed or compensation received in connection  
188 with executive lobbying or legislative lobbying. Any justice of the supreme judicial court or the  
189 superior court may, upon application by the state secretary, issue a summons to be served in the  
190 same manner as summonses for witnesses in criminal cases, issued on behalf of the  
191 commonwealth and all the provisions of law relative to summonses shall apply to summonses  
192 issued under this section so far as applicable. Any justice of the supreme judicial court or the  
193 superior court may upon application by the state secretary compel the attendance of witnesses  
194 summoned as aforesaid and the giving of testimony under oath before the state secretary in  
195 furtherance of any investigation in the same manner and to the same extent as before said courts.

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197 (e) The state secretary, or his designee, may administer oaths and may hear testimony or  
198 receive other evidence in any proceeding.

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200 (f) All testimony in an adjudicatory proceeding shall be under oath. All parties shall have  
201 the right to call and examine witnesses, to introduce exhibits, to cross-examine witnesses who  
202 testify, to submit evidence, and to be represented by counsel. Before testifying, all witnesses  
203 shall be given a copy of the regulations governing adjudicatory proceedings.

204  
205 (g) Any person whose name is mentioned during an adjudicatory proceeding of the state  
206 secretary and who may be adversely affected thereby may appear personally before the state  
207 secretary on his own behalf, with or without counsel, to give a statement in opposition to such  
208 adverse mention or file a written statement of such opposition for incorporation into the record of  
209 the proceeding.

(h) All adjudicatory proceedings of the state secretary pursuant to this section shall be public and shall be subject to chapter 30A.

(i) Within 30 days after completion of deliberations, the state secretary shall publish a written report of his findings and conclusions.

(j) Upon a finding pursuant to an adjudicatory proceeding that there has been a violation, the state secretary may issue an order: (1) requiring the violator to cease and desist such violation; (2) requiring the violator to file any report, statement or other information as required by sections 39 to 50, inclusive; (3) suspending for a specified period or revoking the license and registration of the violator; or (4) requiring the violator to pay a civil penalty of not more than \$10,000 for each violation. The state secretary may file a civil action in superior court to enforce this order.

(k) Final action by the state secretary under this section shall be subject to review in superior court upon petition of any party in interest filed within 30 days after the action for which review is sought. The court shall enter a judgment enforcing, modifying, or setting aside the order of the state secretary, or it may remand the proceedings to the state secretary for such further action as the court may direct. If the court modifies or sets aside the state secretary's order or remands the proceedings to the state secretary, the court shall determine whether such modification, set aside, or remand is substantial. If the court does find such modification, set aside, or remand to be substantial, the petitioner shall be entitled to be reimbursed from the treasury of the commonwealth for reasonable attorneys' fees and all court costs incurred by him in the defense of the charges contained in the proceedings. The amount of such reimbursement shall be awarded by the court but shall not exceed \$20,000 per person, per case.

(l) Any person who violates the confidentiality of an inquiry under this section shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 1 year, or both.

(m) The state secretary shall automatically disqualify any person convicted of a felony in violation of chapter 3, chapter 55, or chapter 268A from acting or registering as an executive or legislative agent for a period of 10 years from the date of conviction.

**SECTION 13.** Section 47 of said chapter 3, as so appearing, is hereby further amended by striking out, in lines 4 and 5, the words "whose name appears upon the docket".

**SECTION 14.** The second paragraph of said section 47 of said chapter 3, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Said penalty shall be in the amount of \$50 per day up to the twentieth day and an additional \$100 per day for every day after the twentieth day until the statement is filed. The state secretary may waive these penalties for good cause.

**SECTION 15.** Section 48 of said chapter 3, as so appearing, is hereby amended by striking out, in line 3, the words “five thousand dollars” and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2 years, or both.

**SECTION 16.** Section 49 of said chapter 3, as so appearing, is hereby amended by inserting after the first sentence the following 2 sentences:- The supreme judicial court or superior court may, upon application of the attorney general, grant equitable or mandamus relief to enforce sections 41 to 43, inclusive, prohibiting the offering or giving of or paying for gifts, meals, beverages, or other items. Relief under this section may include (a) an order to pay to the commonwealth an amount equal to the value of any compensation or thing paid or received in violation of section 42, or the value of any gift, meal, beverage, or other item given or received in violation of section 43; and (b) a civil penalty of up to \$10,000 for each violation of sections 41 to 47, inclusive.

**SECTION 17.** Sections 11A and 11A½ of chapter 30A of the General Laws are hereby repealed.

**SECTION 18.** Said chapter 30A is hereby further amended by adding the following 8 sections:-

Section 18: As used in this section and sections 19 to 25, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Deliberation”, an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction; provided, however, that “deliberation” shall not include the distribution of a meeting agenda, scheduling information or distribution of other procedural meeting or the distribution of reports or documents that may be discussed at a meeting, provided that no opinion of a member is expressed.

“Emergency”, a sudden, generally unexpected occurrence or set of circumstances demanding immediate action.

“Executive session”, any part of a meeting of a public body closed to the public for deliberation of certain matters.

“Intentional violation”, an act or omission by a public body or a member thereof, in knowing by violating the open meeting law.

“Meeting”, a deliberation by a public body with respect to any matter within the body’s



jurisdiction; provided, however, “meeting” shall not include:

(a) an on-site inspection of a project or program, so long as the members do not deliberate;

(b) attendance by a quorum of a public body at a public or private gathering, including a conference or training program or a media, social or other event, so long as the members do not deliberate;

(c) attendance by a quorum of a public body at a meeting of another public body that has complied with the notice requirements of the open meeting law, so long as the visiting members communicate only by open participation in the meeting on those matters under discussion by the host body and do not deliberate;

(d) a meeting of a quasi-judicial board or commission held for the sole purpose of making a decision required in an adjudicatory proceeding brought before it; or

(e) a session of a town meeting convened under section 10 of chapter 39 which would include the attendance by a quorum of a public body at any such session.

“Minutes”, the written report of a meeting created by a public body required by subsection (a) of section 23 and section 5A of chapter 66.

“Open meeting law”, sections 18 to 25, inclusive.

“Post notice”, to display conspicuously the written announcement of a meeting either in hard copy or electronic format.

“Preliminary screening”, the initial stage of screening applicants conducted by a committee or subcommittee of a public body solely for the purpose of providing to the public body a list of those applicants qualified for further consideration or interview.

“Public body”, a multiple-member board, commission, committee or subcommittee within the executive or legislative branch or within any county, district, city, region or town, however created, elected, appointed or otherwise constituted, established to serve a public purpose; provided, however, that the governing board of a local housing, redevelopment or other similar authority shall be deemed a local public body; provided, further, that the governing board or body of any other authority established by the general court to serve a public purpose in the commonwealth or any part thereof shall be deemed a state public body; provided, further, that “public body” shall not include the general court or the committees or recess commissions thereof, bodies of the judicial branch or bodies appointed by a constitutional officer solely for the purpose of advising a constitutional officer and shall not include the board of bank incorporation or the policyholders protective board; and provided further, that a subcommittee shall include any multiple-member body created to advise or make recommendations to a public body.

“Quorum”, a simple majority of the members of the public body, unless otherwise provided in a general or special law, executive order or other authorizing provision.

Section 19. (a) There shall be in the department of the attorney general a division of open government under the direction of a director of open government. The attorney general shall designate an assistant attorney general as the director of the open government division. The director may appoint and remove, subject to the approval of the attorney general, such expert, clerical and other assistants as the work of the division may require. The division shall perform the duties imposed upon the attorney general by the open meeting law, which may include participating, appearing and intervening in any administrative and judicial proceedings pertaining to the enforcement of the open meeting law. For the purpose of such participation, appearance, intervention and training authorized by this chapter the attorney general may expend such funds as may be appropriated therefor.

(b) The attorney general shall create and distribute educational materials and provide training to public bodies in order to foster awareness and compliance with the open meeting law. Open meeting law training may include, but shall not be limited to, instruction in:

- (1) the general background of the legal requirements for the open meeting law;
- (2) applicability of sections 18 to 25, inclusive, to governmental bodies;
- (3) the role of the attorney general in enforcing the open meeting law; and
- (4) penalties and other consequences for failure to comply with this chapter.

(c) There shall be an open meeting law advisory commission. The commission shall consist of 5 members, 2 of whom shall be the chairmen of the joint committee on state administration and regulatory oversight; 1 of whom shall be the president of the Massachusetts Municipal Association or his designee; 1 of whom shall be the president of the Massachusetts Newspaper Publishers Association or his designee; and 1 of whom shall be the attorney general or his designee.

The commission shall review issues relative to the open meeting law and shall submit to the attorney general recommendations for changes to the regulations, trainings, and educational initiatives relative to the open meeting law as it deems necessary and appropriate.

(d) The attorney general shall, not later than January 31, file annually with the commission a report providing information on the enforcement of the open meeting law during the preceding calendar year. The report shall include, but not be limited to:

- (1) the number of open meeting law complaints received by the attorney general;

- (2) the number of hearings convened as the result of open meeting law complaints by the attorney general;
- (3) a summary of the determinations of violations made by the attorney general;
- (4) a summary of the orders issued as the result of the determination of an open meeting law violation by the attorney general;
- (5) an accounting of the fines obtained by the attorney general as the result of open meeting law enforcement actions;
- (6) the number of actions filed in superior court seeking relief from an order of the attorney general; and
- (7) any additional information relevant to the administration and enforcement of the open meeting law that the attorney general deems appropriate.

Section 20. (a) Except as provided in section 21, all meetings of a public body shall be open to the public.

(b) Except in an emergency, in addition to any notice otherwise required by law, a public body shall post notice of every meeting at least 48 hours prior to such meeting, excluding Saturdays, Sundays and legal holidays. In an emergency, a public body shall post notice as soon as reasonably possible prior to such meeting. Notice shall be printed in a legible, easily understandable format and shall contain the date, time and place of such meeting and a listing of topics that the chair reasonably anticipates will be discussed at the meeting.

(c) For meetings of a local public body, notice shall be filed with the municipal clerk and posted in a manner conspicuously visible to the public at all hours in or on the municipal building in which the clerk's office is located.

For meetings of a regional or district public body, notice shall be filed and posted in each city or town within the region or district in the manner prescribed for local public bodies. For meetings of a regional school district, the secretary of the regional school district committee shall be considered to be its clerk and shall file notice with the clerk of each city or town within such district and shall post the notice in the manner prescribed for local public bodies. For meetings of a county public body, notice shall be filed in the office of the county commissioners and a copy of the notice shall be publicly posted in a manner conspicuously visible to the public at all hours in such place or places as the county commissioners shall designate for the purpose.

For meetings of a state public body, notice shall be filed with the attorney general by posting on a website in accordance with procedures established for this purpose.

The attorney general shall have the authority to prescribe or approve alternative methods of notice where the attorney general determines such alternative will afford more effective notice to

the public.

(d) The attorney general may by regulation or letter ruling, authorize remote participation by members of a public body not present at the meeting location; provided, however, that the absent members and all persons present at the meeting location are clearly audible to each other; and provided, further, that a quorum of the body, including the chair, are present at the meeting location. Such authorized members may vote and shall not be deemed absent for the purposes of section 23D of chapter 39.

(e) After notifying the chair of the public body, any person may make a video or audio recording of an open session of a meeting of a public body, or may transmit the meeting through any medium, subject to reasonable requirements of the chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. At the beginning of the meeting the chair shall inform other attendees of any such recordings.

(f) No person shall address a meeting of a public body without permission of the chair, and all persons shall, at the request of the chair, be silent. No person shall disrupt the proceedings of a meeting of a public body. If, after clear warning from the chair, a person continues to disrupt the proceedings, the chair may order the person to withdraw from the meeting and if the person does not withdraw, the chair may authorize a constable or other officer to remove the person from the meeting.

(g) Within 2 weeks of qualification for office, all persons serving on a public body shall certify, on a form prescribed by the attorney general, the receipt of a copy of the open meeting law, regulations promulgated pursuant to section 25 and a copy of the educational materials prepared by the attorney general explaining the open meeting law and its application pursuant to section 19. Unless otherwise directed or approved by the attorney general, the appointing authority, city or town clerk or the executive director or other appropriate administrator of a state or regional body, or their designees, shall obtain such certification from each person upon entering service and shall retain it subject to the applicable records retention schedule where the body maintains its official records. The certification shall be evidence that the member of a public body has read and understands the requirements of the open meeting law and the consequences of violating it.

Section 21. (a) A public body may meet in executive session only for the following purposes:

(1) To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. The individual to be discussed in such executive session shall be notified in writing by the public body at least 48 hours prior to the proposed executive session; provided, however, that notification may be waived upon written agreement of the parties. A

public body shall hold an open session if the individual involved requests that the session be open. If an executive session is held, such individual shall have the following rights:

- i. to be present at such executive session during deliberations which involve that individual;
- ii. to have counsel or a representative of his own choosing present and attending for the purpose of advising the individual and not for the purpose of active participation in the executive session;
- iii. to speak on his own behalf; and
- iv. to cause an independent record to be created of said executive session by audio-recording or transcription, at the individual's expense.

The rights of an individual set forth in this paragraph are in addition to the rights that he may have from any other source, including, but not limited to, rights under any laws or collective bargaining agreements and the exercise or non-exercise of the individual rights under this section shall not be construed as a waiver of any rights of the individual.

2. To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel;
3. To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares;
4. To discuss the deployment of security personnel or devices, or strategies with respect thereto;
5. To investigate charges of criminal misconduct or to consider the filing of criminal complaints;
6. To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body;
7. To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements;
8. To consider or interview applicants for employment or appointment by a preliminary screening committee if the chair declares that an open meeting will have a detrimental effect in obtaining qualified applicants; provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee, to consider and interview applicants who have passed a prior preliminary screening;
9. To meet or confer with a mediator, as defined in section 23C of chapter 233, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or entity, provided that:
  - (i) any decision to participate in mediation shall be made in an open session and the

parties, issues involved and purpose of the mediation shall be disclosed; and  
(ii) no action shall be taken by any public body with respect to those issues which are the  
subject of the mediation without deliberation and approval for such action at an open  
session; or

10. to discuss trade secrets or confidential, competitively-sensitive or other proprietary  
information provided in the course of activities conducted by a governmental body as an  
energy supplier under a license granted by the department of public utilities pursuant to  
section 1F of chapter 164, in the course of activities conducted as a municipal aggregator  
under section 134 of said chapter 164 or in the course of activities conducted by a  
cooperative consisting of governmental entities organized pursuant to section 136 of said  
chapter 164, when such governmental body, municipal aggregator or cooperative  
determines that such disclosure will adversely affect its ability to conduct business in  
relation to other entities making, selling or distributing electric power and energy.

(b) A public body may meet in closed session for 1 or more of the purposes enumerated  
in subsection (a) provided that:

1. the body has first convened in an open session pursuant to section 21;
2. a majority of members of the body have voted to go into executive session and the  
vote of each member is recorded by roll call and entered into the minutes;
3. before the executive session, the chair shall state the purpose for the executive  
session, stating all subjects that may be revealed without compromising the  
purpose for which the executive session was called;
4. the chair shall publicly announce whether the open session will reconvene at the  
conclusion of the executive session; and
5. accurate records of the executive session shall be maintained pursuant to section  
23.

Section 22. (a) A public body shall create and maintain accurate minutes of all meetings,  
including executive sessions, setting forth the date, time and place, the members present or  
absent, a summary of the discussions on each subject, a list of documents and other exhibits used  
at the meeting, the decisions made and the actions taken at each meeting, including the record of  
all votes.

(b) No vote taken at an open session shall be by secret ballot. Any vote taken at an executive  
session shall be recorded by roll call and entered into the minutes.

(c) Minutes of all open sessions shall be created and approved in a timely manner. The  
minutes of an open session, if they exist and whether approved or in draft form, shall be made  
available upon request by any person within 10 days.

(d) Documents and other exhibits, such as photographs, recordings or maps, used by the body  
at an open or executive session shall, along with the minutes, be part of the official record of the

session.

(e) The minutes of any open session, the notes, recordings or other materials used in the preparation of such minutes and all documents and exhibits used at the session, shall be public records in their entirety and not exempt from disclosure pursuant to any of the exemptions under clause Twenty-sixth of section 7 of chapter 4. Notwithstanding this paragraph, the following materials shall be exempt from disclosure to the public as personnel information: (1) materials used in a performance evaluation of an individual bearing on his professional competence, provided they were not created by the members of the body for the purposes of the evaluation; and (2) materials used in deliberations about employment or appointment of individuals, including applications and supporting materials; provided, however, that any resume submitted by an applicant shall not be exempt.

(f) The minutes of any executive session, the notes, recordings or other materials used in the preparation of such minutes and all documents and exhibits used at the session, may be withheld from disclosure to the public in their entirety under subclause (a) of clause Twenty-sixth of section 7 of chapter 4, as long as publication may defeat the lawful purposes of the executive session, but no longer; provided, however, that the executive session was held in compliance with section 21.

When the purpose for which a valid executive session was held has been served, the minutes, preparatory materials and documents and exhibits of the session shall be disclosed unless the attorney-client privilege or 1 or more of the exemptions under said clause Twenty-sixth of said section 7 of said chapter 4 apply to withhold these records, or any portion thereof, from disclosure.

For purposes of this subsection, if an executive session is held pursuant to clause (2) or (3) of subsections (a) of section 21, then the minutes, preparatory materials and documents and exhibits used at the session may be withheld from disclosure to the public in their entirety, unless and until such time as a litigating, negotiating or bargaining position is no longer jeopardized by such disclosure, at which time they shall be disclosed unless the attorney-client privilege or 1 or more of the exemptions under said clause Twenty-sixth of said section 7 of said chapter 4 apply to withhold these records, or any portion thereof, from disclosure.

(g)(1) The public body, or its chair or designee, shall, at reasonable intervals, review the minutes of executive sessions to determine if the provisions of this subsection warrant continued non-disclosure. Such determination shall be announced at the body's next meeting and such announcement shall be included in the minutes of that meeting.

(2) Upon request by any person to inspect or copy the minutes of an executive session or any portion thereof, the body shall respond to the request within 10 days following receipt and shall

release any such minutes not covered by an exemption under subsection (f); provided, however, that if the body has not performed a review pursuant to paragraph (1), the public body shall perform the review and release the non-exempt minutes, or any portion thereof, not later than the body's next meeting or 30 days, whichever first occurs. A public body shall not assess a fee for the time spent in its review.

Section 23. (a) Subject to appropriation, the attorney general shall interpret and enforce the open meeting law.

(b) At least 30 days prior to the filing of a complaint with the attorney general, the complainant shall file a written complaint with the public body, setting forth the circumstances which constitute the alleged violation and giving the body an opportunity to remedy the alleged violation; provided, however, that such complaint shall be filed within 30 days of the date of the alleged violation. The public body shall, within 14 business days of receipt of a complaint, send a copy of the complaint to the attorney general and notify the attorney general of any remedial action taken. Any remedial action taken by the public body in response to a complaint under this subsection shall not be admissible as evidence against the public body that a violation occurred in any later administrative or judicial proceeding relating to such alleged violation. The attorney general may authorize an extension of time to the public body for the purpose of taking remedial action upon the written request of the public body and a showing of good cause to grant the extension.

(c) Upon the receipt of a complaint by any person, the attorney general shall determine, in a timely manner, whether there has been a violation of the open meeting law. The attorney general may, and before imposing any civil penalty on a public body shall, hold a hearing on any such complaint. Following a determination that a violation has occurred, the attorney general shall determine whether the public body, 1 or more of the members, or both, are responsible and whether the violation was intentional or unintentional. Upon the finding of a violation, the attorney general may issue an order to:

- (1) compel immediate and future compliance with the open meeting law;
- (2) compel attendance at a training session authorized by the attorney general;
- (3) nullify in whole or in part any action taken at the meeting;
- (4) impose a civil penalty upon the public body of not more than \$1,000 for each intentional violation;
- (5) reinstate an employee without loss of compensation, seniority, tenure or other benefits;
- (6) compel that minutes, records or other materials be made public; or
- (7) prescribe other appropriate action.

(d) A public body or any member of a body aggrieved by any order issued pursuant to this



section may, notwithstanding any general or special law to the contrary, obtain judicial review of the order only through an action in superior court seeking relief in the nature of certiorari; provided, however, that notwithstanding section 4 of chapter 249, any such action shall be commenced in superior court within 21 days of receipt of the order. Any order issued under this section shall be stayed pending judicial review; provided, however, that if the order nullifies an action of the public body, the body shall not implement such action pending judicial review.

(e) If any public body or member thereof shall fail to comply with the requirements set forth in any order issued by the attorney general, or shall fail to pay any civil penalty imposed within 21 days of the date of issuance of such order or within 30 days following the decision of the superior court if judicial review of such order has been timely sought, the attorney general may file an action to compel compliance. Such action shall be filed in Suffolk superior court with respect to state public bodies and, with respect to all other public bodies, in the superior court in any county in which the public body acts or meets. If such body or member has not timely sought judicial review of the order, such order shall not be open to review in an action to compel compliance.

(f) As an alternative to the procedure in subsection (b), the attorney general or 3 or more registered voters may initiate a civil action to enforce the open meeting law.

Any action under this subsection shall be filed in Suffolk superior court with respect to state public bodies and, with respect to all other public bodies, in the superior court in any county in which the public body acts or meets.

In any action filed pursuant to this subsection, in addition to all other remedies available to the superior court, in law or in equity, the court shall have all of the remedies set forth in subsection (b).

In any action filed under this subsection, the order of notice on the complaint shall be returnable not later than 10 days after the filing and the complaint shall be heard and determined on the return day or on such day as the court shall fix, having regard to the speediest possible determination of the cause consistent with the rights of the parties; provided, however, that orders may be issued at any time on or after the filing of the complaint without notice when such order is necessary to fulfill the purposes of the open meeting law. In the hearing of any action under this subsection, the burden shall be on the respondent to show by a preponderance of the evidence that the action complained of in such complaint was in accordance with and authorized by the open meeting law; provided, however, that no civil penalty may be imposed on an individual absent proof that the action complained of violated the open meeting law.

(g) It shall be a defense to the imposition of a penalty that the public body, after full

disclosure, acted in good faith compliance with the advice of the public body's legal counsel.

(h) Payment of civil penalties under this section paid to or received by the attorney general shall be paid into the general fund of the commonwealth.

Section 24. (a) Whenever the attorney general has reasonable cause to believe that a person, including any public body and any other state, regional, county, municipal or other governmental official or entity, has violated the open meeting law, the attorney general may conduct an investigation to ascertain whether in fact such person has violated the open meeting law. Upon notification of an investigation, any person, public body or any other state, regional, county, municipal or other governmental official or entity who is the subject of an investigation, shall make all information necessary to conduct such investigation available to the attorney general. In the event that the person, public body or any other state, regional, county, municipal or other governmental official or entity being investigated does not voluntarily provide relevant information to the attorney general within 30 days of receiving notice of the investigation, the attorney general may: (1) take testimony under oath concerning such alleged violation of the open meeting law; (2) examine or cause to be examined any documentary material of whatever nature relevant to such alleged violation of the open meeting law; and (3) require attendance during such examination of documentary material of any person having knowledge of the documentary material and take testimony under oath or acknowledgment in respect of any such documentary material. Such testimony and examination shall take place in the county where such person resides or has a place of business or, if the parties consent or such person is a nonresident or has no place of business within the commonwealth, in Suffolk county.

(b) Notice of the time, place and cause of such taking of testimony, examination or attendance shall be given by the attorney general at least 10 days prior to the date of such taking of testimony or examination.

(c) Service of any such notice may be made by: (1) delivering a duly-executed copy to the person to be served or to a partner or to any officer or agent authorized by appointment or by law to receive service of process on behalf of such person; (2) delivering a duly-executed copy to the principal place of business in the commonwealth of the person to be served; or (3) mailing by registered or certified mail a duly-executed copy addressed to the person to be served at the principal place of business in the commonwealth or, if said person has no place of business in the commonwealth, to his principal office or place of business.

(d) Each such notice shall: (1) state the time and place for the taking of testimony or the examination and the name and address of each person to be examined, if known and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs; (2) state the statute and section thereof, the alleged violation of which is under

investigation and the general subject matter of the investigation; (3) describe the class or classes of documentary material to be produced thereunder with reasonable specificity, so as fairly to indicate the material demanded; (4) prescribe a return date within which the documentary material is to be produced; and (5) identify the members of the attorney general's staff to whom such documentary material is to be made available for inspection and copying.

(e) No such notice shall contain any requirement which would be unreasonable or improper if contained in a subpoena duces tecum issued by a court of the commonwealth or require the disclosure of any documentary material which would be privileged, or which for any other reason would not be required by a subpoena duces tecum issued by a court of the commonwealth.

(f) Any documentary material or other information produced by any person pursuant to this section shall not, unless otherwise ordered by a court of the commonwealth for good cause shown, be disclosed to any person other than the authorized agent or representative of the attorney general, unless with the consent of the person producing the same; provided, however, that such material or information may be disclosed by the attorney general in court pleadings or other papers filed in court.

(g) At any time prior to the date specified in the notice, or within 21 days after the notice has been served, whichever period is shorter, the court may, upon motion for good cause shown, extend such reporting date or modify or set aside such demand or grant a protective order in accordance with the standards set forth in Rule 26(c) of the Massachusetts Rules of Civil Procedure. The motion may be filed in the superior court of the county in which the person served resides or has his usual place of business or in Suffolk county. This section shall not be applicable to any criminal proceeding nor shall information obtained under the authority of this section be admissible in evidence in any criminal prosecution for substantially identical transactions.

Section 25. (a) The attorney general shall have the authority to promulgate rules and regulations to carry out enforcement of the open meeting law.

(b) The attorney general shall have the authority to interpret the open meeting law and to issue written letter rulings or advisory opinions according to rules established under this section.

**SECTION 19.** Sections 9F and 9G of chapter 34 of the General Laws are hereby repealed.

**SECTION 20.** Sections 23A to 23C, inclusive, of chapter 39 of the General Laws are hereby repealed.

**SECTION 21.** Section 9 of chapter 53 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 21 and 22, the words “, as defined in section one of chapter fifty-five A,”.

**SECTION 22.** Said section 9 of said chapter 53, as so appearing, is hereby further amended by striking out, in line 25, the word “fifty-five A” and inserting in place thereof the following figure:- 55C.

**SECTION 23.** Section 1 of chapter 55 of the General Laws, as so appearing, is hereby amended by inserting after the definition of “Candidate’s committee” the following definition:-

“Clearly identified candidate”, a candidate whose name, photo or image appears in a communication or a candidate whose identity is apparent by unambiguous reference in a communication.

**SECTION 24.** Said section 1 of said chapter 55, as so appearing, is hereby further amended by inserting after the definition of “Election” the following definition:-

“Electioneering communication”, any broadcast, cable, mail, satellite or print communication that: (1) refers to a clearly identified candidate; and (2) is publicly distributed within 90 days before an election in which the candidate is seeking election or reelection; provided, however, that “electioneering communication” shall not include the following communications: (1) a communication that is disseminated through a means other than a broadcast station, radio station, cable television system or satellite system, newspaper, magazine, periodical, billboard advertisement, or mail; (2) a communication to less than 100 recipients; (3) a news story, commentary, letter to the editor, news release, column, op-ed or editorial broadcast by a television station, radio station, cable television system or satellite system, or printed in a newspaper, magazine, or other periodical in general circulation; (4) expenditures or independent expenditures or contributions that must otherwise be reported under this chapter; (5) a communication from a membership organization exclusively to its members and their families, otherwise known as a membership communication; (6) bonafide candidate debates or forums and advertising or promotion of the same; and (7) internet or email communications.

**SECTION 25.** Said section 1 of said chapter 55, as so appearing, is hereby further amended by inserting after the definition of “Expenditure” the following definition:-

"Independent expenditure", an expenditure made, or liability incurred, by an individual, group, or association for goods or services expressly advocating the election or defeat of a clearly identified candidate which is made or incurred without cooperation or consultation with any candidate, or a nonelected political committee organized on behalf of a candidate, or any agent

of a candidate and which is not made or incurred in concert with, or at the request or suggestion of, any candidate, or any nonelected political committee organized on behalf of a candidate or agent of such candidate.

**SECTION 26** The eighth paragraph of section 3 of said chapter 55, as so appearing, is hereby amended by adding the following four sentences:- The name of a candidate who fails to file any statement or report after the institution of civil proceedings under this section to compel such filing shall not be printed on a state primary or state election ballot unless the statement or report is filed prior to the deadline for filing nomination papers with the state secretary for such candidate pursuant to chapter 53. The director shall notify the state secretary of the names of those candidates against whom civil proceedings have been instituted and shall do so within 72 hours of the filing deadline for nomination papers with the state secretary. Any candidate who is disqualified from appearing on a state primary or state election ballot as set forth above shall be ineligible to be nominated at a state primary as a write-in or sticker candidate unless the candidate shall have filed the statements or reports which are the subject of the civil litigation by the date of the primary. The director shall notify the state secretary of any candidates who have filed their statements or reports which were the subject of civil litigation no later than 24 hours after the date of the state primary.

**SECTION 27.** Said section 3 of said chapter 55, as so appearing, is hereby further amended by inserting after the word “requested”, in line 111, the following words:- , by personal delivery, by leaving a copy of the notice at the person’s last and usual place of residence or by delivering a copy of the notice to an attorney who has appeared on behalf of the alleged violator.

**SECTION 28.** The eleventh paragraph of said section 3 of said chapter 55, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Evidence of any such violation of this chapter which has come to the director’s attention shall be presented by the director to the attorney general not later than 120 days before or 3 years after the relevant election or, if the evidence does not relate to an identifiable election, not later than 3 years after the violation.

**SECTION 29.** The twelfth paragraph of said section 3 of said chapter 55, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Said civil penalty shall be in the amount of \$25 per day; provided, however, that the maximum penalty the director may assess shall be no greater than \$5,000 for any one report, statement or affidavit which is filed later than the prescribed date.

**SECTION 30.** Said section 3 of said chapter 55, as so appearing, is hereby amended by adding the following paragraph:-

The director shall not disclose publicly any correspondence or communication to a candidate, political committee, or ballot question committee which contains a deadline for response until the deadline has passed or until the director has received a response, whichever is earlier. Notwithstanding the forgoing notices of future filing requirements and notices of failure to file, a required report shall be a public record when issued.

**SECTION 31.** The ninth paragraph of section 5 of said chapter 55, as so appearing, is hereby amended by adding the following sentence:- No person who is authorized to make such expenditures shall sign a committee check payable to himself or herself.

**SECTION 32.** Section 6 of said chapter 55, as so appearing, is further hereby amended by adding after the fifth paragraph the following paragraph:-

For purposes of this section the term “personal use” shall include the payment of fines, penalties, restitution or damages incurred for a violation of chapters 268A and 268B, but shall not include payments made in relation to allegations of violations of such chapters.

**SECTION 33.** Section 8 of said chapter 55, as so appearing, is hereby amended by striking out, in lines 7 and 8, the words “corporation incorporated” and inserting in place thereof the following words:- or professional corporation, partnership, limited liability company partnership.

**SECTION 34.** Subsection (d) of section 10A of said chapter 55, as so appearing, is hereby amended by striking out clause (1) and inserting in place thereof the following clause:- (1) a bona fide joint fund-raising effort conducted solely for the purpose of sponsorship of a fund-raising reception, dinner, or other event, in accordance with the rules prescribed by the director by 2 or more state or local committees of a political party acting on their own behalf; or

**SECTION 35.** Section 18 of said chapter 55, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Each candidate and each treasurer of a political committee shall, except as provided in this section and section 24, file with the director reports of contributions received and expenditures made. A candidate and a committee organized on behalf of candidates seeking public office at a municipal election shall file such reports with the director, if the candidate is seeking the office of mayor in a municipality with a total population, as determined by the most recent federal decennial census, of between 40,000 and 100,000 persons, if the candidate or the candidate’s committee, during the election cycle, can reasonably expect to raise or spend more than \$5,000, or if the committee is required to file such reports with the director pursuant to section 19. All other candidates seeking public office at a city or town election shall file reports with the city or

town clerk. A committee organized under section 5 to favor or oppose a question submitted to the voters shall file its reports with the director if the question appears on ballots at a state election, or with the city or town clerk if the question appears on ballots at a city or town election or for use in a city or town at a state election. Reports of contributions received and expenditures made shall be filed using forms prescribed by the director.

**SECTION 36.** Said section 18 of said chapter 55, as so appearing, is hereby amended by inserting after the word “January”, in line 102, the following words:- ; provided, however, that candidates for the state senate or house of representatives, the nonelected political committees organized on behalf of such candidates, and political action committees, that file with the director, shall also file mid-year reports on or before the twentieth day of July in each year in each odd-numbered year.

**SECTION 37** The third paragraph of said section 18 of said chapter 55, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following two sentences:- For all candidates and all political committees, if said report is not an initial report, the reporting period of such reports required to be filed on or before the twentieth day of July in each odd-numbered year shall commence on the first day of January of that year, or on the day following the end of the reporting period of the last report filed, if any, whichever period is shorter, and shall end as of the thirtieth day of June of said year. The reporting period for the report required to be filed on or before January 20 in each odd-numbered year shall commence on the day following the end of the reporting period of the last report filed and shall end as of December 31 of the prior year.

**SECTION 38.** Said section 18 of said chapter 55, as so appearing, is hereby further amended by inserting after the thirteenth paragraph the following 2 paragraphs:-

Each year-end campaign finance report filed by a candidate or non-elected political committee required to designate a depository by section 19 and who also maintains or who has maintained a savings account or money market account, shall disclose, for each reporting period, all activity in any such account. Nothing in this section shall authorize a transfer made from any such savings or money market accounts to an account other than the depository account established by a candidate or committee in accordance with said section 19.

Every political committee organized on behalf of a candidate that files with the director, and every ballot question committee that files with the director, which receives and deposits a contribution in the amount of \$500 or more after the eighteenth day, but more than 72 hours, before the date of a special, preliminary, primary or general election, shall file a report to disclose the information required by this section, within 72 hours of depositing such contribution.

**SECTION 39.** Said section 18 of said chapter 55, as so appearing, is hereby further amended by striking out, in line 253, the words “Local Aid” and inserting in place thereof the word:-  
General.

**SECTION 40.** Said section 18 of said chapter 55, as so appearing, is hereby further amended by inserting after the seventeenth paragraph the following paragraph:-

Any person nominated by the governor for a position that requires confirmation by the executive council shall, within 6 months of the date of confirmation, dissolve any political committee organized on behalf of such person and disperse all funds remaining in such committee’s account in accordance with this section.

**SECTION 41.** Said chapter 55 is hereby further amended by striking out section 18A, as so appearing, and inserting in place thereof the following section:-

Section 18A. (a) Every individual, group or association not defined as a political committee who makes independent expenditures in an aggregate amount exceeding \$250 during any calendar year for the express purpose of promoting the election or defeat of a candidate shall file with the director, except as provided in subsection (c), within 7 business days after the goods or services for which the independent expenditure was made are utilized to advocate for the election or defeat of a clearly identified candidate, on a form prescribed by the director, a report stating: (1) the name and address of the individual, group or association making any such independent expenditures; (2) the name of the candidate whose election or defeat the expenditure promoted; (3) the name and address of any person to whom the expenditures were made; (4) the total amount or value; and (5) the purpose and the date of each independent expenditure.

(b) In addition to any reports required by subsection (a), any individual, group, association or political committee that makes an independent expenditure in an aggregate amount exceeding \$250 after the tenth day, but more than 24 hours, before the date of any election, shall file a preliminary report within 24 hours of making the independent expenditure, disclosing: (1) the name and address of the individual, group, association or political committee making the expenditure; (2) the name of the candidate whose election or defeat the expenditure promoted; (3) the name and address of any person to whom the independent expenditures were made; and (4) the purpose and the date of each expenditure.

(c) The individual, group, association or political committee shall file an additional preliminary report within 24 hours after each time it makes additional independent expenditures equal, in the aggregate, to \$250 with respect to the same election as that to which the initial report relates, and shall also file any report required by subsection (a).



(d) The reports required by this section shall be filed with the director as provided in section 18C if expenditures are made to promote the election or defeat of any candidate who files with the director. Reports required by this section shall be filed with the city or town clerk if the expenditures are made to promote the election or defeat of any candidate seeking public office at a city or town election who does not file with the director.

(e) A violation of any provision of this section shall be punished by a fine of not more than \$5,000 or by imprisonment in a house of correction for not more than 1 year.

**SECTION 42.** Subsection (b) of section 18C of said chapter 55, as so appearing, is hereby amended by adding the following 6 clauses:-

(4) every political committee organized on behalf of a candidate that files with the director, including committees required to designate a depository on behalf of a candidate and every ballot question committee that files with the director, which receives and deposits a contribution of \$500 or more after the eighteenth day, but more than 72 hours, before the date of a special, preliminary, primary or general election within 72 hours of depositing such contribution;

(5) every state committee referred to in section 1 of chapter 52 required to designate a depository by section 19 of this chapter, which receives a contribution of \$500 or more after the eighteenth day, but more than 24 hours before, the date of a special, preliminary, primary or general election, within 72 hours of depositing such contribution;

(6) for every political committee required to file campaign finance reports electronically with the director, any reports filed pursuant to section 18D made to disclose expenditures by vendors of the committee to subvendors;

(7) an individual, group, association or political committee that is required to file a report of independent expenditures with the director in accordance with subsection (a) or (b) of section 18A;

(8) each candidate's committee organized on behalf of a candidate for mayor in a municipality with a total population, as determined by the most recent federal decennial census, of 40,000 to 100,000 persons, if the committee, during the election cycle, can reasonably expect to raise or spend more than \$5,000; and

(9) every individual, group or association who makes an independent expenditure or electioneering communication expenditure in an aggregate amount exceeding \$250 during any calendar year.

**SECTION 43.** Said chapter 55 is hereby further amended by inserting after section 18C the following 3 sections:-

Section 18D. (a) For the purpose of this section the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Expenditure”, any payment made or liability incurred by a vendor on behalf of a political committee.

“Person”, a natural person, corporation, association, partnership or other legal entity.

“Subvendor”, a person providing goods or services to a vendor or who contracts with a vendor to provide goods or services to a committee.

“Vendor”, any person including, but not limited to, a consultant, who provides goods or services to a political committee that files with the director and either receives or is promised \$5,000 or more in the aggregate during a calendar year by the committee for such goods or services, or contracts with another on behalf of the committee for such goods or services valued at \$5,000 or more in the aggregate to be provided to the committee.

(b) A vendor that makes an expenditure on behalf of a political committee shall within 5 days of making such expenditure provide the political committee with a detailed account of the expenditure including, but not limited to, the date of the expenditure, the person who received payment, the full name and address of the subvendor, the purpose of the expenditure, and the amount of the expenditure.

(c) A political committee that makes a payment to a vendor or incurs a liability to a vendor shall file reports with the director disclosing the full name and address, listed alphabetically, of each subvendor receiving payments of more than \$500 in the aggregate during a calendar year from the vendor, and of each subvendor to whom a liability of more than \$500 was incurred. The contents of such report shall include the information required by section 18 and shall be disclosed on a form prescribed by the director. For committees required to designate a depository account under section 19, the reports shall be filed on or before the fifth day of each month covering the preceding month; provided, however, that for other committees, the report must be filed in accordance with the schedule established by section 18.

(d) Vendors shall keep detailed accounts of all expenditures made on behalf of political committees.

Section 18E. (a) Legal defense funds may be created by a candidate or the candidate’s political committee to defend against a criminal matter or to pay costs associated with a civil matter that is not primarily personal in nature. Inauguration funds may be created by a candidate or the candidate’s political committee to pay for the costs associated with an inaugural event. Recount funds may be created by a candidate or candidate’s political committee to pay for the legal and other costs associated with a recount. Legal defense, inauguration, or recount

funds shall be created separately from the candidate's campaign account or committee, and shall be subject to the following conditions: (1) assets of a political committee may not be used by the fund; (2) any donations received by the fund shall not be deposited into the candidate's campaign account or a committee account; and (3) donations to such fund shall not be used to benefit a political committee.

(b) Donations to a legal defense, recount, or inauguration fund, if not contributions, shall be disclosed to the director or, if made by a candidate or committee that does not file with the director, the city or town clerk, on or before the fifth day of the month following the month in which the donations are received, complete as of the last day of the preceding month, on forms to be prescribed by the director. The report shall disclose the name and address and employer of all persons donating more than \$50 during the reporting period, listed alphabetically, the amount of each such donation, and the total amount of donations received in the reporting period not otherwise reported.

(c) For purposes of this section, the term "donations" shall include donations in money or in-kind, and loans provided to legal defense, recount, or inauguration fund.

Section 18F. Every individual, group or association not defined as a political committee who makes an electioneering communication expenditure, in an aggregate amount exceeding \$250 during a calendar year, shall electronically file with the director, within 7 days after making such an expenditure, a report stating the name and address of the individual, group or association making the electioneering communication, the name of any candidate clearly identified in the communication, the total amount or value of the communication, the name and address of the vendor to whom the payments were made and the purpose and date of any such expenditure. In addition, any individual, group or association not defined as a political committee who makes an electioneering communication expenditure, in an aggregate amount exceeding \$250 during a calendar year, who receives funds for the purpose of making such electioneering communications shall include in the electronic filing the date the funds were received and the name and address of the provider of any such funds in excess of \$250, if any. Reports required by this section shall be filed with the director as provided in section 18C if communications were made to promote the election or defeat of any candidate who files with the director. Reports required by this section shall be filed with the city or town clerk if the communications were made to promote the election or defeat of any candidate seeking public office at a city or town election who does not otherwise file with the director.

Any person, group or association that makes or contracts to make electioneering communications aggregating \$1,000 or more within 7 days before the date of an election shall file a report containing the information required by this section within 48 hours after making such expenditure.

A violation of this section shall be punished by a fine of not more than \$5,000 or by imprisonment in the house of correction for not more than 1 year.

**SECTION 44.** Section 19 of said chapter 55, as so appearing, is hereby amended by striking out, lines 5 and 6, the words “other citywide office, except for the office of school committee,” and inserting in place thereof the following words:- ,city council or alderman.

**SECTION 45.** Said section 19 of said chapter 55, as so appearing, is hereby further amended by striking out, in lines 101 and 102, the words “mayor or other citywide office except for school committee” and inserting in place thereof the following words:- city council, aldermen or mayor.

**SECTION 46.** Said section 19 of said chapter 55, as so appearing, is hereby further amended by adding the following subsection:-

(g) Each committee required to designate a depository on behalf of a candidate that files with the director in accordance with this section and which receives and deposits a contribution of \$500 or more after the eighteenth day but more than 72 hours before the date of a special, preliminary, primary or general election shall file a report to disclose the information required by this section within 72 hours of depositing such contribution. In addition, each state committee referred to in section 1 of chapter 52 required to designate a depository pursuant to this section and which receives a contribution of \$500 or more after the eighteenth day, but more than 24 hours, before the date of a special, preliminary, primary or general election, shall file a report to disclose the information required by this section, within 72 hours of depositing such contribution.

**SECTION 47.** Section 22 of said chapter 55, as so appearing, is hereby amended by striking out, in line 1, the word “The” and inserting in place thereof the following words:- Any person or the.

**SECTION 48.** Said section 22 of said chapter 55, as so appearing, is hereby further amended by inserting after the first paragraph the following paragraph:-

Any person who makes an expenditure of \$250 or more other than a contribution to a ballot question committee or incurs a liability of \$250 or more to influence or affect the vote on any question submitted to the voters shall file reports setting forth the amount or value of the expenditure or liability, together with the date, purpose and full name of the person to whom the expenditure was made or the liability incurred.

**SECTION 49.** Said section 22 of said chapter 55, as so appearing, is hereby further amended by inserting after the word “such”, in lines 17, 31 and 41, the following words:- person or.

**SECTION 50.** Said section 22 of said chapter 55, as so appearing, is hereby further amended by inserting after the word “Any”, in line 38, the following words:- person or.

**SECTION 51.** Section 24 of said chapter 55, as so appearing, is hereby further amended by inserting after the word “statement”, in lines 1, 4, 5, 8, 9, and 12, the following words:- or report.

**SECTION 52.** Section 24 of said chapter 55, as so appearing, is hereby amended by inserting after the word “office”, in line 3, the following words:- , other than a municipal office for which a candidate is required to file with the director in accordance with section 18C or section 19.

**SECTION 53.** Said section 24 of said chapter 55, as so appearing, is hereby further amended by inserting after the word “statements”, in lines 13 and 14, the following words:- or reports.

**SECTION 54.** Section 26 of said chapter 55, as so appearing, is hereby amended by striking the first and second sentences and inserting in place thereof the following sentence:- The city or town clerk shall retain all statements and reports required to be filed with such clerk until December 31st of the sixth year following the relevant election. In the case of committees other than those authorized by a candidate, the city or town clerk shall retain all required statements and reports filed with such clerk until December 31st of the sixth year following the date that the statement or report was filed.

**SECTION 55.** Said section 26 of said chapter 55, as so appearing, is hereby further amended by adding the following sentence:- Within 30 days after the filing deadline, all campaign finance reports required to be filed with the city or town clerk under section 18 shall be made available for viewing on the internet website of the municipality if such municipality has such a website, if the report discloses that a candidate or committee filing a report has received contributions or made expenditures in excess of \$1,000 during a reporting period or incurred liabilities or acquired or disposed of assets in excess of \$1,000 during a reporting period.

**SECTION 56.** Said chapter 55 is hereby further amended by striking out section 29, as so appearing, and inserting in place thereof the following section:-

Section 29. Upon failure to file a statement, report or affidavit within 10 days after receiving notice under section 28, the city or town clerk, as the case may be, shall notify the director thereof and shall furnish him with copies of all papers related thereto and the director, if satisfied there is cause, shall assess a penalty and may refer the person or committee to the attorney general pursuant to section 3. If any statement filed with the city or town clerk, as the case may be, discloses any violation of this chapter, such city or town clerk shall notify the director thereof and shall furnish him with copies of all papers relating thereto. The director shall examine every

such case referred to him by such clerk and may refer such cases to the attorney general in accordance with section 3. If satisfied that there is cause, the attorney general shall, in the name of the commonwealth, institute appropriate criminal or civil proceedings or refer the case to the proper district attorney for such actions as may be appropriate. Any city or town clerk shall at any time upon the request of the attorney general or the director forward any evidence or information received by such clerk to the attorney general or director for whatever action the attorney general or director deems appropriate pursuant to law.

**SECTION 57.** The last paragraph of section 4 of chapter 55C of the General Laws, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following 2 sentences:- Determination and certification of the eligibility of candidates shall be made by the director on the eighth Tuesday before the primary and shall be based solely upon information contained in such statements as have been filed by candidates. Candidates for governor seeking public financing shall file the statement on or before the Friday that is 11 days preceding said eighth Tuesday and other candidates seeking public financing shall file said statements on or before the Friday next preceding said eighth Tuesday.

**SECTION 58.** The second paragraph of section 6 of said chapter 55C, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following 2 sentences:- Determination and certification of the eligibility of candidates shall be made by the director on the fourth Tuesday before the state election and shall be based solely upon information contained in such statements as have been filed by candidates. Candidates for governor and lieutenant governor seeking public financing shall file the statement on or before the Friday that is 11 days preceding said fourth Tuesday and other candidates seeking public financing shall file said statements on or before the Friday next preceding said fourth Tuesday.

**SECTION 59.** Section 2 of chapter 62 of the General Laws, as so appearing, is hereby amended by inserting after the word “income” in line 229, the following words:- ; provided, however, that Part B gross income shall include bribes, corrupt gifts and any income gained through illegal activities.

**SECTION 60.** Chapter 268 of the General Laws is hereby amended by inserting after section 13D the following section:-

Section 13E. (a) As used in this section the following word shall, unless the context clearly requires otherwise, have the following meaning:-

“Official proceeding”, a proceeding before a court or grand jury, or a proceeding before a state agency or commission, which proceeding is authorized by law and relates to an alleged violation of a criminal statute or the laws and regulations enforced by the state ethics

commission, the state secretary, the office of the inspector general, or the office of campaign and political finance, or an alleged violation for which the attorney general may issue a civil investigative demand.

(b) Whoever alters, destroys, mutilates, or conceals a record, document, or other object, or attempts to do so, with the intent to impair the record, document or object's integrity or availability for use in an official proceeding, whether or not the proceeding is pending at that time, shall be punished, by (i) a fine of not more than \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2 years, or both, or (ii) if the official proceeding involves a violation of a criminal statute, by a fine of not more than \$25,000, or by imprisonment in the state prison for not more than 10 years, or in a jail or house of correction for not more than 2 1/2 years, or both.

(c) The record, document, or other object need not be admissible in evidence or free of a claim of privilege.

(d) A prosecution under this section may be brought in the county where the official proceeding was or would have been convened or where the alleged conduct constituting an offense occurred.

**SECTION 61.** Section 2 of chapter 268A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 46 to 49, inclusive, the words "five thousand dollars or by imprisonment in the state prison for not more than three years or in a jail or house of correction for not more than two and one half years, or by both such fine and imprisonment in a jail or house of correction" and inserting in place thereof the following words:- \$100,000, or by imprisonment in the state prison for not more than 10 years, or in a jail or house of correction for not more than 2 1/2 years, or both.

**SECTION 62.** Said chapter 268A is hereby further amended by striking out section 3, as so appearing, and inserting in place thereof the following section:-

Section 3. (a) Whoever knowingly, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly, gives, offers or promises anything of substantial value to any present or former state, county or municipal employee or to any member of the judiciary, or to any person selected to be such an employee or member of the judiciary: (i) for or because of any official act performed or to be performed by such an employee or member of the judiciary or person selected to be such an employee or member of the judiciary; or (ii) to influence, or attempt to influence, an official action of the state, county or municipal employee or to any member of the judiciary; or

(b) Whoever knowingly, being a present or former state, county or municipal employee or member of the judiciary, or person selected to be such an employee or member of the judiciary, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly, asks, demands, exacts, solicits, seeks, accepts, receives or agrees to receive anything of substantial value: (i) for himself for or because of any official act or act within his official responsibility performed or to be performed by him; or (ii) to influence, or attempt to influence, him in an official act taken; or

(c) Whoever knowingly, directly or indirectly, gives, offers or promises anything of substantial value to any person, for or because of testimony under oath or affirmation given or to be given by such person or any other person as a witness upon a trial, hearing or other proceeding, before any court, any committee of either house or both houses of the general court, or any agency, commission or officer authorized by the laws of the commonwealth to hear evidence or take testimony or for or because of his absence therefrom; or

(d) Whoever knowingly, directly or indirectly, asks, demands, exacts, solicits, seeks, accepts, receives or agrees to receive anything of substantial value for himself for or because of the testimony under oath or affirmation given or to be given by him or any other person as a witness upon any such trial, hearing or other proceeding, or for or because of his absence therefrom; shall be punished by a fine of not more than \$50,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2 years, or both.

(e) Clauses (c) and (d) shall not prohibit the payment or receipt of witness fees provided by law or the payment by the party upon whose behalf a witness is called and receipt by a witness of the reasonable cost of travel and subsistence incurred and the reasonable value of time lost in attendance at any such trial, hearing or proceeding, or, in the case of expert witnesses, involving a technical or professional opinion, a reasonable fee for time spent in the preparation of such opinion, in appearing or testifying.

(f) The state ethics commission shall adopt regulations: (i) defining "substantial value," ; provided, however, that "substantial value" shall not be less than \$50; (ii) establishing exclusions for ceremonial gifts; (iii) establishing exclusions for gifts given solely because of family or friendship; and (iv) establishing additional exclusions for other situations that do not present a genuine risk of a conflict or the appearance of a conflict of interest.

**SECTION 63.**Section 4 of said chapter 268A, as so appearing, is hereby amended by striking out, in lines 17 and 18, inclusive, the words "three thousand dollars or by imprisonment for not more than two years, or both" and inserting in place thereof the following words:- \$10,000, or



by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2 years, or both.

**SECTION 64.**Section 5 of said chapter 268A, as so appearing, is hereby amended by striking out, in line 26, the word “agent” and inserting in place thereof the following words:- or executive agent.

**SECTION 65.** Said section 5 of said chapter 268A, as so appearing, is hereby further amended by inserting after the word “body”, in line 28, the following words:- , as determined by the state ethics commission.

**SECTION 66.** Said section 5 of said chapter 268A, as so appearing, is hereby further amended by striking out, in lines 41 and 42, inclusive, the words “three thousand dollars or by imprisonment for not more than two ” and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2.

**SECTION 67.** Section 6 of said chapter 268A, as so appearing, is hereby amended by striking out, in lines 7 and 8, inclusive, the words “three thousand dollars or by imprisonment for not more than two” and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2.

**SECTION 68.** Section 7 of said chapter 268A, as so appearing, is hereby amended by striking out, in line 5, the words “three thousand dollars or by imprisonment for not more than two” and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2.

**SECTION 69.** Section 8 of said chapter 268A, as so appearing, is hereby amended by striking out, in line 17, the words “five thousand dollars or by imprisonment for not more than two” and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2.

**SECTION 70.** Said chapter 268A is hereby further amended by striking out section 9, as so appearing, and inserting in place thereof the following section:-

Section 9. (a) In addition to any other remedies provided by law, any violation of sections 2 to 8, inclusive, or section 23 which has substantially influenced the action taken by any state agency in any particular matter, shall be grounds for avoiding, rescinding or canceling the action on such terms as the interests of the commonwealth and innocent third persons shall require.

(b) In addition to the remedies set forth in subsection (a), the state ethics commission upon a finding pursuant to an adjudicatory proceeding that a person has acted to his economic advantage in violation of sections 2 to 8, inclusive, or section 23, may issue an order: (1) requiring the violator to pay the commission on behalf of the commonwealth damages in the amount of the economic advantage or \$500, whichever is greater; and (2) requiring the violator to make restitution to an injured third party. If there has been no final criminal judgment of conviction or acquittal of the same violation, upon receipt of the written approval of the attorney general, the commission may order payment of additional damages in an amount not exceeding twice the amount of the economic advantage or \$500, and payment of such additional damages shall bar any criminal prosecution for the same violation.

The maximum damages that the commission may order a violator to pay under this section shall be \$25,000. If the commission determines that the damages authorized by this section exceed \$25,000, it may bring a civil action against the violator to recover such damages.

(c) The remedies authorized by this section shall be in addition to any civil penalty imposed by the state ethics commission in accordance with clause (3) of subsection (j) of section 4 of chapter 268B.

**SECTION 71.**Section 11 of said chapter 268A, as so appearing, is hereby amended by striking out, in lines 16 and 17, the words “three thousand dollars or by imprisonment for not more than two” and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2.

**SECTION 72.**Section 12 of said chapter 268A, as so appearing, is hereby amended by striking out, in lines 24 and 25, inclusive, the words “three thousand dollars or by imprisonment for not more than two” and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2.

**SECTION 73.**Section 13 of said chapter 268A, as so appearing, is hereby amended by striking out, in lines 7 and 8, the words “three thousand dollars or by imprisonment for not more than two” and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2.

**SECTION 74.**Section 14 of said chapter 268A, as so appearing, is hereby amended by striking out, in lines 5 and 6, inclusive, the words “three thousand dollars or by imprisonment for not more than two” and inserting in place thereof the following words:- \$10,000, or by

imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2.

**SECTION 75.** Said chapter 268A is hereby further amended by striking out section 15, as so appearing, and inserting in place thereof the following section:-

Section 15. (a) In addition to any other remedies provided by law, a violation of section 2, 3, 8, or sections 11 to 14, inclusive, or section 23 which has substantially influenced the action taken by any county agency in any particular matter, shall be grounds for avoiding, rescinding, or canceling the action on such terms as the interests of the county and innocent third persons shall require.

(b) In addition to the remedies set forth in subsection (a), the commission may, upon a finding pursuant to an adjudicatory proceeding that a person has acted to his economic advantage in violation of section 2, 3, 8, sections 11 to 14, inclusive, or section 23, issue an order (1) requiring the violator to pay the commission on behalf of the county damages in the amount of the economic advantage or \$500, whichever is greater; and (2) requiring the violator to make restitution to an injured third party. If there has been no final criminal judgment of conviction or acquittal of the same violation, upon receipt of the written approval of the attorney general and the district attorney, the commission may order payment of additional damages in an amount not exceeding twice the amount of the economic advantage or \$500, and payment of such additional damages shall bar any criminal prosecution for the same violation.

The maximum damages that the commission may order a violator to pay under this section shall be \$25,000. If the commission determines that the damages authorized by this section exceed \$25,000, it may bring a civil action against the violator to recover such damages.

(c) The remedies authorized by this section shall be in addition to any civil penalty imposed by the commission in accordance with clause (3) of subsection (j) of section 4 of chapter 268B.

**SECTION 76.** Section 17 of said chapter 268A, as so appearing, is hereby amended by striking out, in lines 16 and 17, the words “three thousand dollars or by imprisonment for not more than two” and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2.

**SECTION 77.** Section 18 of said chapter 268A, as so appearing, is hereby amended by striking out, in lines 22 and 23, inclusive, the words “three thousand dollars or by imprisonment for not more than two” and inserting in place thereof the following words:- \$10,000, or by

imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2.

**SECTION 78.** Section 19 of said chapter 268A, as so appearing, is hereby amended by striking out, in lines 7 and 8, the words “three thousand dollars or by imprisonment for not more than two” and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2.

**SECTION 79.** Section 20 of said chapter 268A, as so appearing, is hereby amended by striking out, in lines 5 and 6, inclusive, the words “three thousand dollars or by imprisonment for not more than two” and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2.

**SECTION 80.** Said chapter 268A is hereby further amended by striking out section 21, as so appearing, and inserting in place thereof the following section:-

Section 21. (a) In addition to any other remedies provided by law, a finding by the commission pursuant to an adjudicatory proceeding that there has been any violation of sections 2, 3, 8, 17 to 20, inclusive, or section 23, which has substantially influenced the action taken by any municipal agency in any particular matter, shall be grounds for avoiding, rescinding or canceling the action of said municipal agency upon request by said municipal agency on such terms as the interests of the municipality and innocent third persons require.

(b) In addition to the remedies set forth in subsection (a) , the commission may, upon a finding pursuant to an adjudicatory proceeding that a person has acted to his economic advantage in violation of sections 2, 3, 8, 17 to 20, inclusive, or section 23, may issue an order (1) requiring the violator to pay the commission on behalf of the municipality damages in the amount of the economic advantage or \$500, whichever is greater; and (2) requiring the violator to make restitution to an injured third party. If there has been no final criminal judgment of conviction or acquittal of the same violation, upon receipt of the written approval of the district attorney, the commission may order payment of additional damages in an amount not exceeding twice the amount of the economic advantage or \$500, and payment of such additional damages shall bar any criminal prosecution for the same violation. The maximum damages that the commission may order a violator to pay under this section shall be \$25,000. If the commission determines that the damages authorized by this section exceed \$25,000, it may bring a civil action against the violator to recover such damages.

(c) The remedies authorized by this section shall be in addition to any civil penalty imposed by the commission in accordance with clause (3) of subsection (j) of section 4 of chapter 268B.

**SECTION 81. Subsection (b) of** section 23 of said chapter 268A, as so appearing, is hereby amended by striking out clause (2) and inserting in place thereof the following clause:-

(2) (i) solicit or receive anything of substantial value for such officer or employee, which is not otherwise authorized by statute or regulation, for or because of the officer or employee's official position; or (ii) use or attempt to use such official position to secure for such officer, employee or others unwarranted privileges or exemptions which are of substantial value and which are not properly available to similarly situated individuals;

**SECTION 82.** Said section 23 of said chapter 268A, as so appearing, is hereby further amended by striking out, in line 21, the word "conclusion." and inserting in place thereof the following words:- conclusion; or

(4) present a false or fraudulent claim to his employer for any payment or benefit of substantial value.

**SECTION 83.** Said section 23 of said chapter 268A, as so appearing, is hereby further amended by striking out subsection(f) and inserting in place thereof the following subsection:-

(f) The state ethics commission shall adopt regulations: (i) defining substantial value; provided, however, that substantial value shall not be less than \$50; (ii) establishing exclusions for ceremonial privileges and exemptions; (iii) establishing exclusions for privileges and exemptions given solely because of family or friendship; and (iv) establishing additional exclusions for other situations that do not present a genuine risk of a conflict or the appearance of a conflict of interest.

**SECTION 84.** Said chapter 268A is hereby further amended by adding the following 4 sections:-

Section 26. (a) Any person who, directly or through another, with fraudulent intent, violates clause (2) or (4) of subsection (b) of section 23, or any person who, with fraudulent intent, causes any other person to violate said clauses (2) or (4) of said subsection (b) of said section 23 or with fraudulent intent offers or gives any privileges or exemptions of substantial value in violation of said clause (2) or (4) of said subsection (b) of said section 23 , shall be punished by a fine of not more than \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2 years, or both, if the unwarranted privileges or

exemptions have a fair market value in the aggregate of more than \$1,000 in any 12 month period.

Section 27. The commission shall prepare, and update as necessary, summaries of this chapter for state, county, and municipal employees, respectively, which the commission shall publish on its official website. Every state, county and municipal employee shall, within 30 days of becoming such an employee, and on an annual basis thereafter, be furnished with a summary of this chapter prepared by the commission and sign a written acknowledgment that he has been provided with such a summary. Municipal employees shall be furnished with the summary by, and file an acknowledgment with, the city or town clerk. Appointed state and county employees shall be furnished with the summary by, and file an acknowledgment with, the employee's appointing authority or his designee. Elected state and county employees shall be furnished with the summary by, and file an acknowledgment with, the commission. The commission shall establish procedures for implementing this section and ensuring compliance.

Section 28. The state ethics commission shall prepare and update from time to time the following online training programs, which the commission shall publish on its official website: (1) a program which shall provide a general introduction to the requirements of this chapter; and (2) a program which shall provide information on the requirements of this chapter applicable to former state, county, and municipal employees. Every state, county, and municipal employee shall, within 30 days after becoming such an employee, and every 2 years thereafter, complete the online training program. Upon completion of the online training program, the employee shall provide notice of such completion to be retained for 6 years by the appropriate employer.

The commission shall establish procedures for implementing this section and ensuring compliance.

Section 29. Each municipality, acting through its city council, board of selectmen, or board of aldermen, shall designate a senior level employee of the municipality as its liaison to the state ethics commission. The municipality shall notify the commission in writing of any change to such designation within 30 days of such change. The commission shall disseminate information to the designated liaisons and conduct educational seminars for designated liaisons on a regular basis on a schedule to be determined by the commission in consultation with the municipalities.

**SECTION 85.** Chapter 268B of the General Laws, is hereby amended by striking out section 1 , as appearing in the 2006 Official Edition and inserting in place thereof, the following section:-

Section 1. As used in this chapter, the following words shall, unless the context clearly requires otherwise have the following meanings:

1481 “Amount”, a category of value, rather than an exact dollar figure, as follows: greater than  
1482 \$1,000 but not more than \$5,000; greater than \$5,000 but not more than \$10,000; greater than  
1483 \$10,000 but not more than \$20,000; greater than \$20,000 but not more than \$40,000; greater than  
1484 \$40,000 but not more than \$60,000; greater than \$60,000 but not more than \$100,000; greater  
1485 than \$100,000.

1486 “Business”, any corporation, partnership, sole proprietorship, firm, franchise, association,  
1487 organization, holding company, joint stock company, receivership, business or real estate trust or  
1488 any other legal entity organized for profit or charitable purposes.

1489 “Business with which he is associated”, any business in which the reporting person or a  
1490 member of his immediate family is a general partner, proprietor, officer or other employee,  
1491 including one who is self-employed or serves as a director, trustee or in any similar managerial  
1492 capacity and any business more than 1 per cent of any class of the outstanding equity of which is  
1493 beneficially owned in the aggregate by the reporting person and members of his immediate  
1494 family.

1495 “Candidate for public office”, any individual who seeks nomination or election to public  
1496 office; provided, however, that , an individual shall be deemed to be seeking nomination or  
1497 election to public office if he has: (1) received a political contribution or made an expenditure, or  
1498 has given his consent for any other person or committee to receive a political contribution or  
1499 make an expenditure, for the purpose of influencing his nomination or election to such office,  
1500 whether or not the specific public office for which he will seek nomination or election is known  
1501 at the time the political contribution is received or the expenditure is made; or (2) taken the  
1502 action necessary under the laws of the commonwealth to qualify himself for nomination or  
1503 election to such office.

1504 “Commission”, the state ethics commission established by section 2;

1505 “Equity”, any stock or similar ownership interest in a business.

1506 “Executive agent”, an executive agent as defined in section 39 of chapter 3.

1507 “Governmental body”, a state or county agency, authority, board, bureau, commission,  
1508 council, department, division or other entity, including the general court and the courts of the  
1509 commonwealth.

1510 “Immediate family”, a spouse and any dependent children residing in the reporting  
1511 person’s household.

1512 “Income”, income from whatever source derived, whether in the form of a fee, salary,  
1513 allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain or any other

1514 form of recompense or any combination thereof; provided, however, that interest from savings  
1515 accounts or from government obligations other than those of the commonwealth or any political  
1516 subdivision thereof or any public agency or authority created by the general court, alimony and  
1517 support payments, proceeds from a life insurance policy, retirement or disability benefits and  
1518 social security payments shall not be considered income for the purposes of this chapter.

1519 “Legislative agent”, a legislative agent as defined in section 39 of chapter 3.

1520 “Major policymaking position”, the executive or administrative head of a governmental  
1521 body, all members of the judiciary, any person whose salary equals or exceeds that of a state  
1522 employee classified in step 1 of job group XXV of the general salary schedule contained in  
1523 section 46 of chapter 30 and who reports directly to said executive or administrative head, the  
1524 head of each division, bureau or other major administrative unit within such governmental body  
1525 and persons exercising similar authority.

1526 “Person”, a business, individual, corporation, union, association, firm, partnership,  
1527 committee or other organization or group of persons.

1528 “Political contribution”, a contribution of money or anything of value to an individual,  
1529 candidate, political committee or person acting on behalf of an individual, candidate or political  
1530 committee, for the purpose of influencing the nomination or election of the individual or  
1531 candidate or for the purpose of promoting or opposing a charter change, referendum question,  
1532 constitutional amendment or other question submitted to the voters and shall include any: (1)  
1533 gift, subscription, loan, advance, deposit of money, or thing of value, except a loan of money to a  
1534 candidate by a national or state bank made in accordance with the applicable banking laws and  
1535 regulations and in the ordinary course of business; (2) transfer of money or anything of value  
1536 between political committees; (3) payment, by any person other than a candidate or political  
1537 committee, or compensation for the personal services of another person which are rendered to  
1538 such candidate or committee; (4) purchase from an individual, candidate or political committee,  
1539 or person acting on behalf of an individual, candidate or political committee, whether through the  
1540 device of tickets, advertisements, or otherwise, for fund-raising activities, including testimonials,  
1541 held on behalf of said individual, candidate or political committee, to the extent that the purchase  
1542 price exceeds the actual cost of the goods sold or services rendered; (5) discount or rebate not  
1543 available to other candidates for the same office and to the general public; and (6) forgiveness of  
1544 indebtedness or payment of indebtedness by another person; provided, however, that political  
1545 contribution shall not include the rendering of services by speakers, editors, writers, poll  
1546 watchers, poll checkers or others, or the payment by those rendering such services of such  
1547 personal expenses as may be incidental thereto, or the exercise of ordinary hospitality.

1548 “Public employee”, a person who holds a major policymaking position in a governmental  
1549 body; provided, however, that a person who receives no compensation other than



reimbursements for expenses, or any person serving on a governmental body that has no authority to expend public funds other than to approve reimbursements for expenses shall not be considered a public employee for the purposes of this chapter; provided, further, that the members of the board of bar examiners shall not be considered public employees for the purposes of this chapter.

“Public office”, a position for which one is nominated at a state primary or chosen at a state election, excluding the positions of senator and representative in congress and the office of regional district school committee member elected district-wide.

“Public official”, a person who holds a public office.

“Reporting person”, a person required to file a statement of financial interest pursuant to section 5.

**SECTION 86.** Section 4 of said chapter 268B, as so appearing, is hereby amended by striking out subsection (a) and inserting in place thereof the following:-

(a) Upon receipt of a sworn complaint signed under the penalties of perjury, or upon receipt of evidence which is deemed sufficient by the commission, the commission shall initiate a preliminary inquiry into any alleged violation of chapter 268A or 268B. At the commencement of a preliminary inquiry into any such alleged violation, the general counsel shall notify the attorney general in order to avoid overlapping civil and criminal investigations. All commission proceedings and records relating to a preliminary inquiry or initial staff review used to determine whether to initiate an inquiry shall be confidential, except that the general counsel may turn over to the attorney general, the United States Attorney or a district attorney of competent jurisdiction evidence which may be used in a criminal proceeding. The general counsel shall notify any person who is the subject of the preliminary inquiry of the existence of such inquiry and the general nature of the alleged violation within 30 days of the commencement of the inquiry.

**SECTION 87.** Subsection (c) of said section 4 of said chapter 268B, as so appearing, is hereby amended by adding the following sentence:- The commission shall initiate such an adjudicatory proceeding within 5 years from the date the commission learns of the alleged violation, but not more than 6 years from the date of the last conduct relating to the alleged violation.

**SECTION 88.** Subsection (d) of said section 4 of said chapter 268B as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Such summonses shall have the same force, and be obeyed in the same manner, and under the same penalties in case of default, as if issued by order of a justice of the superior court and may be quashed only upon motion of the summonsed party and by order of a justice of the superior court.

**SECTION 89.** Said section 4 of said chapter 268B, as so appearing, is hereby further amended by striking out, in lines 73 and 74, the words “two thousand dollars for each violation of this chapter or said chapter two hundred and sixty-eight A” and inserting in place thereof the following words:- \$10,000 for each violation of this chapter or chapter 268A, with the exception of a violation of section 2 of chapter 268A, which shall be subject to a civil penalty of not more than \$25,000.

**SECTION 90.** Said section 4 of said chapter 268B, as so appearing, is hereby further amended by inserting after the word “order”, in line 76, the following words:- and any order issued by the commission in accordance with chapter 268A.

**SECTION 91.** Said section 4 of said chapter 268B, as so appearing, is hereby further amended by inserting after the word “to”, in line 77, the following words:- chapter 268A or 268B.

**SECTION 92.** Said section 4 said chapter 268B, as so appearing, is hereby further amended by striking out, in line 91, the words “twenty thousand dollars” and inserting in place thereof the following figure:- \$30,000.

**SECTION 93.** Said section 4 of said chapter 268B, as so appearing, is hereby further amended by adding the following paragraph:-

(l) The superior court shall have concurrent jurisdiction to issue orders under paragraph (j) in a civil action brought by the attorney general. In any such action, an advisory opinion of the commission under clause (g) of section 3 shall be binding to the same extent as it is against the commission under that clause.

**SECTION 94.** Section 5 of said chapter 268B, as so appearing, is hereby amended by inserting after the word legislative, in line 68, the following words:- or executive.

**SECTION 95.** Said chapter 268B is hereby further amended by striking out section 6, as so appearing, and inserting in place thereof the following section:-

Section 6. No executive or legislative agent shall knowingly and willfully offer or give to any public official or public employee or a member of such person’s immediate family, and no public official or public employee or member of such person’s immediate family shall knowingly and willfully solicit or accept from any executive or legislative agent, any gift of any kind or nature; provided, however, that the state ethics commission shall promulgate regulations: (i) establishing exclusions for ceremonial gifts; (ii) establishing exclusions for gifts given solely

because of family or friendship; and (iii) establishing additional exclusions for other situations that do not present a genuine risk of a conflict or the appearance of a conflict of interest.

**SECTION 96.**Section 7 of said chapter 268B, as so appearing, is hereby amended by striking out, in line 7, the words “files a ” and inserting in place thereof the following words:- willfully files a materially.

**SECTION 97.**Said section 7 of said chapter 268B, as so appearing, is hereby further amended by striking out, in lines 9 and 10, the words “one thousand dollars or by imprisonment in the state prison for not more than three years, or in a house of correction for not more than two and one-half” and inserting in place thereof the following words:- \$10,000, or by imprisonment in the state prison for not more than 5 years, or in a jail or house of correction for not more than 2 1/2.

**SECTION 98.** The General Laws are hereby further amended by inserting after chapter 277 the following chapter:-

## **CHAPTER 277A**

### **Statewide Grand Jury**

Section 1. Upon written application of the attorney general to the chief justice of the superior court department, with good cause stated therein, the chief justice may authorize the convening of a statewide grand jury with jurisdiction extending throughout the commonwealth.

Section 2. The chief justice of the superior court department shall, upon granting an application, receive recommendations from the attorney general as to the county in which the statewide grand jury shall sit. Upon receiving the attorney general’s recommendations, the chief justice shall choose 1 of those recommended locations as the site where the grand jury shall sit. Once a county has been selected, the chief justice shall direct the regional administrative judge from the county selected to appoint, and reappoint as necessary, a superior court judge to preside over the statewide grand jury.

Section 3. The superior court judge presiding over the grand jury shall consult with the attorney general and district attorney for the relevant district about the nature and scope of the investigation and shall thereafter designate and authorize an existing county grand jury to serve as a statewide grand jury for purposes of the investigation specified in the written application, or, alternatively, convene and preside over a specially empaneled statewide grand jury.

Section 4. A specially empaneled statewide grand jury shall be drawn and selected in the same manner as the county grand jury in the county in which the specially empaneled statewide

grand jury sits. A specially empaneled statewide grand jury may, at the discretion of the presiding superior court judge, draw jurors from counties adjoining the one in which the statewide grand jury is to sit.

Section 5. A specially empaneled statewide grand jury convened pursuant to this chapter shall sit for a period not to exceed 18 months. The superior court judge presiding over the grand jury may extend this period if, in accordance with section 1A of chapter 277 and section 41 of chapter 234A, public necessity requires further time by the grand jury to complete an on-going investigation.

Section 6. The attorney general or an assistant attorney general shall attend each session of a statewide grand jury and may prosecute any indictment returned by it. The attorney general or assistant attorney general shall have the same powers and duties in relation to a statewide grand jury that she has in relation to a county grand jury, except as otherwise provided by law.

Section 7. Indictments shall be returned in the county where the statewide grand jury sits and shall thereafter be transferred to the county specified by the grand jury on the indictment. Venue for purposes of trial of offenses indicted by a statewide grand jury shall be in any county where venue would otherwise be proper.

Section 8. No provision of this chapter shall be construed as limiting the jurisdiction of county grand juries or district attorneys. Except as otherwise provided by law, an investigation by a statewide grand jury shall not preempt an investigation by any other grand jury or agency having jurisdiction over the same subject matter.

**SECTION 99.**Chapter 277A of the General Laws is hereby repealed.

**SECTION 100.**Notwithstanding any general or special law to the contrary, every legislative agent and executive agent, as defined by section 39 of chapter 3 of the General Laws shall, within 90 days after the effective date of this act, and every year thereafter, complete an in-person or online seminar offered by the state secretary in accordance with section 41 of said chapter 3.

**SECTION 101.**Notwithstanding any general or special law to the contrary, in accordance with section 27 of chapter 268A of the General Laws within 90 days after the effective date of this act every state, county, and municipal employee shall be provided a summary of chapter 268A prepared by the state ethics commission and shall file a written acknowledgment as required by that section.

**SECTION 102.** Notwithstanding any general or special law to the contrary, within 120 days after the effective date of this act, each municipality shall provide written notification to the state ethics commission of the liaison designated under section 29 of chapter 268A of the General Laws.

**SECTION 103.** Notwithstanding any general or special law to the contrary, any person who has previously received confirmation by the executive council, and who is, on the effective date of this act still a member of the judiciary shall, within 6 months of the effective date of this act, dissolve any political committee organized on behalf of such person and disperse any funds remaining in such committee's account in accordance with section 18 of chapter 55 of the General Laws.

**SECTION 104.** Notwithstanding any general or special law to the contrary, there shall be established a special commission to study the creation of a new independent office of public accountability which would function as the single state entity for the administration and enforcement of the provisions of law currently administered and enforced by the state ethics commission, the office of campaign and political finance and the lobbyist division of the office of the secretary of state.

The commission shall consider factors, including, but not limited to: (1) creating a new independent office of public accountability which would function as the single state entity for the administration and enforcement of the provisions of law currently administered and enforced by the state ethics commission, the office of campaign and political finance and the lobbyist division of the office of the secretary of state; (2) the cost of establishing such an office and the potential cost savings from efficiencies created by consolidating certain functions of the various offices; (3) what personnel would be required in such an office and who would set the salaries for those individuals, and whether civil service laws should apply to such an office; (4) the optimal composition of the new independent office to preserve its impartiality and integrity, including the question of whether no more than a certain number of commission members shall be members of a single political party and whether elected officials should participate in the process including appointing the commission or executive director; (5) who should be responsible for the removal of an executive director or commission member and how to fill such a vacancy; (6) whether any changes are necessary regarding jurisdiction for criminal or civil prosecutions of violations of laws within the purview of the office, and who should be responsible for investigating those matters; (7) whether there is a need for any expanded rulemaking authority within the new office; (8) whether the new office should be authorized to share information with any and all other enforcement agencies or what limitations are required for any particular type of inquiry, and whether information sharing within the office itself should be limited in any way; and (9) whether the confidentiality provisions under chapters 268A and

1744 268B would be jeopardized by consolidation of operations of the state ethics commission with  
1745 other agencies.

1746  
1747 The special commission shall consist of: the secretary of the commonwealth, or his  
1748 designee; the director of the office of campaign and political finance, or his designee; the  
1749 executive director of the state ethics commission, or his designee; 3 members of the senate 1 of  
1750 whom shall be appointed by the minority leader of the senate; 3 members of the house of  
1751 representatives 1 of whom shall be appointed by the minority leader of the house of  
1752 representatives; and 2 members to be appointed by the attorney general. The special commission  
1753 shall report to the general court the results of its investigation and study, together with  
1754 recommendations and drafts of legislation necessary to carry out any recommendations, if any,  
1755 by filing a report with the clerks of the senate and the house of representatives by July 31, 2010.

1756  
1757 **SECTION 105.** Sections 23 to 59, inclusive, of this act shall take effect on January 1, 2010.

1758  
1759 **SECTION 106.** Sections 17 to 20, inclusive, of this act shall take effect July 1, 2010.

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1761 **SECTION 107.** Section 99 shall take effect on December 31, 2014.

